

PUBLIC UTILITIES COMMISSION

505 VAN NESS AVENUE
SAN FRANCISCO, CA 94102-3298**FILED**11/01/19
03:28 PM

November 1, 2019

Agenda ID # 17918**Ratesetting**

TO PARTIES OF RECORD IN APPLICATION 16-04-018 ET AL.:

This is the proposed decision of Administrative Law Judge (ALJ) Tsen and ALJ Liang-Uejio. Until and unless the Commission hears the item and votes to approve it, the proposed decision has no legal effect. This item may be heard, at the earliest, at the Commission's December 5, 2019 Business Meeting. To confirm when the item will be heard, please see the Business Meeting agenda, which is posted on the Commission's website 10 days before each Business Meeting.

Parties of record may file comments on the proposed decision as provided in Rule 14.3 of the Commission's Rules of Practice and Procedure.

The Commission may hold a Ratesetting Deliberative Meeting to consider this item in closed session in advance of the Business Meeting at which the item will be heard. In such event, notice of the Ratesetting Deliberative Meeting will appear in the Daily Calendar, which is posted on the Commission's website. If a Ratesetting Deliberative Meeting is scheduled, *ex parte* communications are prohibited pursuant to Rule 8.2(c)(4)(B).

/s/ ANNE E. SIMON

Anne E. Simon

Chief Administrative Law Judge

AES:gp2

Decision **PROPOSED DECISION OF ALJS TSEN AND LIANG-UEJIO**
(Mailed 11/1/2019)

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of SAN DIEGO GAS &
 ELECTRIC COMPANY (U902E) for
 Approval of its 2017 Electric Procurement
 Revenue Requirement Forecasts and
 GHG-Related Forecasts.

Application 16-04-018

And Related Matters.

Application 16-05-001

Application 16-06-003

**DECISION ADOPTING A SETTLEMENT AGREEMENT RESOLVING THE
 NEGATIVE INDIFFERENCE AMOUNT BALANCE FOR PRE-2009
 VINTAGE DIRECT ACCESS CUSTOMERS IN PACIFIC GAS AND
 ELECTRIC COMPANY'S SERVICE TERRITORY**

Summary

This decision approves the proposed Settlement Agreement between Pacific Gas and Electric Company (PG&E),¹ Direct Access Customer Coalition, and California Large Energy Consumers Association (PG&E Settlement).² Under the PG&E Settlement, PG&E's 2006-2015 cumulative negative indifference amount balance allocated to pre-2009 vintage Direct Access customers for the

¹ Appendix A lists all abbreviations, acronyms, and definitions for this decision.

² The "Joint Motion of Pacific Gas and Electric Company (U39E), Direct Access Customer Coalition, and California Large Energy Consumers Association for Approval of Settlement Agreement" filed on September 6, 2019 (Joint Motion) is attached in Appendix B of this decision.

calculation of their Power Charge Indifference Adjustment should be eliminated. No adjustments are required to the rate of pre-2009 vintage Direct Access customers as a result of the PG&E Settlement. The PG&E Settlement is uncontested.

Decision (D.) 19-08-022 resolved the treatment of Power Charge Indifference Adjustment for pre-2009 vintage Direct Access customers in Southern California Edison Company's and San Diego Gas & Electric Company's service territories. With D.19-08-022 and the approval of the PG&E Settlement in this decision, all three utilities will no longer charge pre-2009 vintage DA customers the respective legacy Utility-Owned Generation costs through the Power Charge Indifference Adjustment. This proceeding is closed.

1. Procedural Background

The Power Charge Indifference Adjustment (PCIA) is a non-bypassable generation charge for Departing Load customers. It is updated annually as part of the Energy Resource Recovery Account (ERRA) Forecast proceedings.

Between April 2016 and June 2016, Pacific Gas and Electric Company (PG&E), Southern California Edison Company (SCE), and San Diego Gas & Electric Company (SDG&E) (utilities) filed their respective applications for approval of 2017 ERRA revenue requirement forecasts (2017 ERRA Forecast proceedings). One shared issue in the scope of these three proceedings is the treatment of the PCIA for pre-2009 vintage Direct Access (DA) customers. In Phase 1 of all three proceedings, parties submitted testimony and briefs on pre-2009 vintage PCIA issues separately contesting the utilities' proposals.

The Commission issued Phase 1 decisions allowing for rate changes on January 1, 2017 for each utility and reserved the limited issue related to the PCIA for pre-2009 vintage DA customers to be resolved at a later time.

On May 22, 2017, Administrative Law Judge (ALJ) Tsen issued a ruling consolidating the three 2017 ERRRA Forecast proceedings and establishing Phase 2 to consider the treatment of the PCIA for pre-2009 vintage DA customers in the utilities' respective 2017 ERRRA Forecast proceedings and going forward. By consolidating the proceedings, the Commission would be able to resolve the issue consistently for customers of all three utilities.

On February 2, 2018, the assigned Commissioner issued a Scoping Memo and Ruling (Scoping Memo) setting forth the category, issues to be addressed, and schedule for the consolidated proceedings pursuant to Public Utilities Code Section 1701.1³ and Article 7 of the Commission's Rules of Practice and Procedure. The Scoping Memo provides that pre-2009 vintage DA customers and their associated PCIA should be treated consistently, while taking into consideration the unique circumstances of each utility's territory.⁴

On April 3, 2018, opening briefs were filed by PG&E, Direct Access Customer Coalition (DACC)/ University of California (U.C.), and California Choice Energy Authority (CCEA)/Marin Clean Energy (MCE). On April 17, 2018, reply briefs were filed by PG&E and CCEA/DACC/ MCE/U.C. (Joint Parties).

On May 2, 2018, PG&E filed a sur-reply to the Joint Parties' reply brief. On May 21, 2018, the Joint Parties filed a motion for the purpose of clarifying statements made by PG&E in its May 2, 2018 sur-reply.

On October 19, 2018, the Commission issued Decision (D.) 18-10-019 in the PCIA Rulemaking (R.) 17-06-026 proceeding revising the PCIA methodology and

³ All further references to section are to the Public Utilities Code, unless otherwise specified.

⁴ Scoping Memo at 3.

deferring the resolution of the issues related to the treatment of the PCIA for pre-2009 vintage DA customers to this proceeding.

On May 22, 2019, ALJ Liang-Uejio issued a ruling setting aside submission, reopening the record, and directing all parties to meet and confer to address the Phase 2 issue related to PG&E (May 22, 2019 ALJ Ruling).

On June 24, 2019, PG&E filed a summary of the June 21, 2019 meet and confer in response to the May 22, 2019 ALJ Ruling.

On September 6, 2019, PG&E on its behalf and DACC and California Large Energy Consumers Association (CLECA) (Settling Parties) filed a joint motion for approval of the PG&E Settlement (Joint Motion). No objections or responses were filed in response to the Joint Motion.

The date of submission is October 7, 2019 (the date that response to the Joint Motion would have been due).

The Commission affirms all rulings made by the assigned Commissioner and the assigned ALJs. All motions not previously ruled on are denied.

2. Issues Before the Commission

In the Scoping Memo, the Commission determined that pre-2009 DA customers and their associated PCIA should be treated consistently, while taking into consideration the unique circumstances in each utility's service territory. The main issue is whether any modifications to the proposed treatment of the PCIA for pre-2009 vintage DA customers are warranted for any of the utilities.

- a. For PG&E, how should the negative indifference amount balance for pre-2009 DA customers be treated? Should the balance be eliminated as proposed by PG&E or returned in the form of a bill credit in order to ensure bundled customer indifference?
- b. Since SCE and SDG&E propose removal of Utility Owned Generation costs from the PCIA calculation for pre-2009

vintage DA customers, what should be the effective date for implementation of PCIA adjustments associated with only retaining San Onofre Nuclear Generating Station related costs in the PCIA for pre-2009 vintages?

This decision resolves PG&E's issue. SCE's and SDG&E's issues were addressed in D.19-08-022. D.19-08-022 adopted a settlement agreement between SCE, Alliance for Retail Energy Markets/DACC, the Public Agency Coalition, and CLECA resolving the treatment of the PCIA for SCE's pre-2009 vintage DA customers (SCE Settlement). D.19-08-022 also adopted SDG&E's proposed treatment of its PCIA for pre-2009 vintage DA customers.

3. Standard of Review

3.1. Settlement Agreements

Rule 12.1(d) requires that any stipulation or settlement, whether contested or uncontested, in order to be approved by the Commission, must be reasonable in light of the whole record, consistent with law, and in the public interest. This decision reviews the PG&E Settlement with these three criteria along with the PCIA principles below.

3.2. The PCIA Principles

The PCIA is required by law.⁵ It was implemented over time in a series of Commission decisions⁶ consistent with the statutory requirement. This decision considers the PG&E Settlement in light of the PCIA decisions and the statutory

⁵ Sections 365.1, 365.2, 366.2, and 366.3. Sections 365.2 and 366.3 require the Commission to ensure that bundled service customers do not experience any cost increases as a result of retail customers electing to receive energy services from other providers and the implementation of CCA.

⁶ Key PCIA policy decisions include but are not limited to: D.02-11-022 (establishing DA Cost Responsibility Surcharge including DWR Power Charge and ongoing Competition Transition Charge or CTC components), D.06-07-030 (Replacing DWR Power Charge with the PCIA), D.08-09-012 (vintage PCIA), D.11-12-018 (adding the "green adder" for renewable resources), and D.18-10-019 and D.19-10-001 (revised and refined PCIA methodology).

requirement. In addition, we also consider the Commission's interest in treating pre-2009 vintage DA customers consistently across the utility service territories. The PCIA ensures that bundled customers are indifferent to customer departures⁷ and Departing Load customers pay their fair share of generation costs incurred on their behalf. Departing Load customers who opt for non-utility energy services, such as Community Choice Aggregation (CCA) or DA, pay their assigned "Vintage PCIA" based on their departure date. "Vintage" refers to the year-specific generation portfolio a utility procured on behalf of its then-bundled service customers.⁸ By vintaging the PCIA based on departure date, Departing Load customers are only responsible for generation resources procured on their behalf prior to their departure.⁹ For example, pre-2009 vintage DA customers¹⁰ are subject to pre-2009 vintage PCIA and have no responsibility for costs incurred after their departure.

The current PCIA is calculated based on the difference between the total portfolio costs of the utility generation resources¹¹ and the Market Price Benchmark,¹² which is generally referred to as the "indifference amount." The

⁷ D.14-12-053, Footnote 6.

⁸ SCE's Opening Brief filed on October 3, 2016 at 1.

⁹ D.08-09-012 at 59.

¹⁰ Non-exempted Departing Load customers who left the utilities' bundled service prior to 2009. They are also referred to as "pre-2003 departing customers" in PG&E's "Prepared Testimony" filed on June 1, 2016 (PG&E's opening testimony, Exhibit PG&E-01 at 10-4 and 10-6) and "pre-2009 vintage departing load customers" in parties' filings. This decision refers to these customers as "pre-2009 Vintage DA Customers" because they are exclusively DA customers who left the utility's bundled service prior to the DA suspension in 2001. There were no new DA customers between the DA suspension in 2001 and the reopening of DA in 2010. The first CCA was formed in 2010.

¹¹ Referred to as procurement costs in this decision.

¹² The Market Price Benchmark is a calculated proxy that represents the market value of the utility's total generation resource portfolio (D.11-12-018 at 8). The current Market Price

indifference amount is then allocated to Departing Load customers on a vintaged basis and recovered through the PCIA and Competition Transition Charge (CTC).¹³

4. The PG&E Settlement

4.1. Parties' Positions Prior to Settlement

4.1.1. PG&E's Position Prior to Settlement

PG&E eliminated the pre-2009 vintage PCIA in 2015 at the expiration of the Department of Water Resources (DWR) contracts. In this proceeding, PG&E requests Commission approval to retire/eliminate the cumulative negative indifference amount balance accrued from 2006 to 2015 allocated to pre-2009 vintage DA customers (2015 negative balance), as ordered by the Commission in D.15-12-022.¹⁴ PG&E points to Commission precedent as directing the 2015 negative balance be retired at the expiration of the DWR contracts.¹⁵ PG&E argues that the 2015 negative balance must be retired from a practical standpoint because the pre-2009 vintage PCIA no longer exists; there will be no future positive PCIA indifference amount to be offset.¹⁶ PG&E argues against returning

Benchmark consists of three components: 1) Brown Power Index, 2) Renewables Portfolio Standard Adder, and 3) Resource Adequacy Capacity Adder (D.18-10-019, Appendix 1). It is refined in D.19-10-001.

¹³ The total indifference amount is the sum of the amounts allocated to Departing Load and bundled customers.

¹⁴ PG&E's opening testimony at 10-1. D.15-12-022 on PG&E's 2016 ERRR Forecast, Ordering Paragraph 5, which states, "Pacific Gas and Electric Company shall request authority for the disposition/retirement of the negative indifference amounts associated with pre-2009 Direct Access customers, in its next Energy Resource Recovery Account forecast application."

¹⁵ PG&E's Opening Brief filed on April 3, 2019 (PG&E's Opening Brief) at 3.

¹⁶ *Id.* at 10.

the 2015 negative balance in the form of a bill credit as it would be inconsistent with prior Commission decisions.¹⁷

PG&E asserts that the Commission clarified D.06-07-030 in D.07-05-005 stating that the PCIA along with the negative indifference carryover for pre-2009 vintage DA customers would continue until the expiration of the DWR contracts. PG&E argues that D.07-05-005 prohibits offsetting the negative indifference amount balance against any other components of the Cost Responsibility Surcharge.¹⁸

4.1.2. Joint Parties' Positions Prior to Settlement

The Joint Parties opposed PG&E's proposal and argues that the 2015 negative balance should be disposed via an offset against pre-2009 vintage DA customers' CTC or a one-time credit. The Joint Parties argued that if the Commission approved PG&E's request, it must consider the outcome of the PCIA Rulemaking decision in R.17-06-026. The PCIA Rulemaking decision was issued on October 19, 2018 (D.18-10-019).

4.1.3. The Terms of the PG&E Settlement

The Settling Parties agree that the 2015 negative balance should be eliminated. The Settling Parties state that the Commission approved the elimination of the pre-2009 vintage PCIA in PG&E's 2015 Erra Forecast proceeding in the year when the DWR contracts expired. PG&E has not charged these customers for the PCIA since 2015. The Settling Parties agree that the negative indifference amount expired when the DWR contracts expired. There is no PCIA obligation to offset the negative indifference amount against. The

¹⁷ PG&E cited D.05-12-045, D.06-07-030, D.07-05-005, and D.11-12-017.

¹⁸ PG&E's Opening Brief at 3 and 5. Footnote 6 explains that the pre-2019 vintage PCIA referred in this proceeding was originally referred to as "DWR PCIA" in prior decisions.

Settling Parties agree that as of PG&E's 2016 ERRA Forecast proceeding, no negative indifference amount balance exists for pre-2009 vintage DA customers, nor shall it be carried over to offset any other non-PCIA rate. No adjustments are required to the rate of pre-2009 vintage DA customers as a result of the PG&E Settlement.¹⁹

4.2. Discussion

In this decision, we evaluate the PG&E Settlement using the review standards stated in Section 3 above.

4.2.1. Reasonableness in Light of the Whole Record

We find that the PG&E Settlement is reasonable in light of the whole record. The record on which we base our determination includes PG&E's Phase 1 opening testimony and parties' opening and reply briefs.

PG&E states that the 2006-2015 historical indifference amounts result in \$77.5 million,²⁰ which should be retired/eliminated.²¹ No parties dispute PG&E's calculations. However, as discussed above, the Joint Parties who represents DA and CCA customers, respectively, oppose PG&E's proposal. Even though the PG&E Settlement is not an all-party settlement as three of the four Joint Parties²² did not sign the agreement, we find that eliminating the 2015 negative balance is a reasonable outcome resolving the difference between PG&E and the Joint Parties.

¹⁹ Joint Motion at 4 and 5 and Attachment A at 4.

²⁰ The total 2006-2015 cumulative negative indifference amount balance is \$1.128 billion, which represents the \$77.5 million for pre-2009 vintage DA customers (the 2015 negative balance) plus the \$1.05 billion allocated to bundled customers. The bundled customers' share was theoretically reflected in their historical generation rates.

²¹ PG&E's opening testimony at 10-4 and 10-6.

²² CCEA, MCE, and U.C.

First, the Joint Parties' proposed offsetting the 2015 negative balance against pre-2009 vintage DA customers' CTC or one-time credit is prohibited by the existing Commission decision. The Commission in D.07-05-055 stated that any "negative indifference amount would only be eligible to offset future positive indifference, and would not be eligible to be applied against any other components of the [Cost Responsibility Surcharge]." ²³

In addition, the Joint Parties' alternative proposal would offset the 2015 negative balance against pre-2009 vintage DA customers' legacy Utility-Owned Generation (UOG) obligation for the calculation of their PCIA. For PG&E, its pre-2009 vintage PCIA including legacy UOG costs has already been eliminated; there will be no future positive indifference amount to be offset against. Therefore, the Joint Parties' alternative proposal is moot.

Therefore, we find that the PG&E Settlement is a reasonable compromise of the Settling Parties' starting positions. However, we clarify that this decision does not make a legal determination regarding whether the 2015 negative balance simply expired when the DWR contracts expired in 2015.

4.2.2. Consistency with Law

We also find that the PG&E Settlement is consistent with law.

As discussed above, in D.14-12-053, the Commission approved PG&E's proposed retirement/elimination of pre-2009 vintaged PCIA in PG&E's 2015 ERRA Forecast proceeding.²⁴ D.14-12-053 noted that the total cumulative

²³ D.07-05-055, Ordering Paragraph 6.

²⁴ D.14-12-053 adopted PG&E's updated PCIA revenue requirement and rates, which reflected PG&E's proposal to eliminate the pre-2009 vintaged PCIA (Conclusion of Law 1 and Ordering Paragraph 1).

negative indifference amount balance for pre-2009 vintage exceeded \$1 billion²⁵ by the end of 2014. D.14-12-053 determined that MCE's proposal of using the negative indifference amount balance to offset other (post-2009 vintaged) customers' PCIA obligations was outside the scope of PG&E's 2015 ERRA Forecast proceeding. D.14-12-053 declined to adopt MCE's recommendation of pre-scoping the issue in another proceeding.²⁶ In D.15-12-022 on PG&E's 2016 ERRA Forecast application, the Commission made a note of MCE's issue that PG&E eliminated the negative indifference amount balance without Commission authority.²⁷ D.15-12-022 ordered PG&E to request authority for the disposition of the negative indifference amount balance in its next ERRA Forecast application.²⁸ Pursuant to D.15-12-022, in this proceeding, PG&E requests to eliminate the 2015 negative balance.²⁹ The PG&E Settlement is consistent with the Commission directive in D.15-12-022 as it seeks the Commission approval for the disposition of the 2015 negative balance.

We also find that the PG&E Settlement is consistent with D.07-05-055. D.07-05-055 allows only using negative indifference amount to offset against future positive indifference amount. Since there will be no future positive indifference amount to be offset against, eliminating the 2015 negative balance is

²⁵ The \$1 billion represents the \$78.6 million for pre-2009 vintage DA customers plus the amount allocated to bundled customers (Exhibit PG&E-01 at Table 10-2, Column "2014 ERRA," Line 17). The 2015 negative balance is \$77.5 million.

²⁶ D.14-12-053 at 11 and 12.

²⁷ D.15-12-022 at 9.

²⁸ *Id.*, at 23, Ordering Paragraph 5.

²⁹ PG&E's opening testimony at 10-4 and 10-6 at 10-1.

consistent with the Commission decision and the PCIA statutory requirement³⁰ as it will not result in any cost increases for PG&E's bundled customers.

In addition, we find that the PG&E Settlement aligns with the principle of treating pre-2009 vintage DA customers and their associated PCIA consistently while taking into consideration unique circumstances in each utility's territory as stated in the Scoping Memo. We agree with the Settling Parties that with the approval of the PG&E Settlement in this decision and the SCE Settlement adopted in D.19-08-022, all three utilities will no longer charge pre-2009 vintage DA customers the respective legacy UOG costs through the PCIA. We remind parties that the adoption of this settlement is non-precedential.³¹

4.2.3. Public Interest

The PG&E Settlement is in the public interest. It is uncontested. The Settling Parties represent different customers perspectives: PG&E (bundled customers), DACC (DA customers), and CLECA (bundled, DA, and CCA large industrial customers). The PG&E Settlement is a consensus position on the basis that pre-2009 vintage PCIA no longer exists; therefore, the 2015 negative balance should be eliminated.

5. Categorization and Need for Hearing

The Commission preliminarily categorized this proceeding as ratesetting as defined in Rule 1.3(e) and anticipated that it would require evidentiary hearings. The Scoping Memo confirms the category remains ratesetting for Phase 2. The Scoping Memo anticipates that hearings are not necessary as

³⁰ Section 365.2.

³¹ Rule 12.5, in relevant part "Commission adoption of a settlement is binding on all parties to the proceeding in which the settlement is proposed. Unless the Commission expressly provides otherwise, such adoption does not constitute approval of, or precedent regarding, any principle or issue in the proceeding or in any future proceeding."

parties have stipulated that the issues are purely legal and require legal briefing only. This decision resolves the PCIA issue related to PG&E. Therefore, no hearings are needed on PG&E's issue.

6. Comments on Proposed Decision

The proposed decision of ALJ Tsen and ALJ Liang-Uejio in this matter was mailed to the parties in accordance with Section 311 of the Public Utilities Code and comments were allowed under Rule 14.3 of the Commission's Rules of Practice and Procedure. Comments were filed on _____, and reply comments were filed on _____ by _____.

7. Assignment of Proceeding

Martha Guzman Aceves is the assigned Commissioner and S. Pat Tsen and Scarlett Liang-Uejio are the assigned ALJs and the presiding officers for the proceeding.

Findings of Fact

1. The Settling Parties request approval to eliminate the 2015 negative balance as set forth in the PG&E Settlement.
2. The current PCIA is calculated based on the difference amount between the total portfolio costs of the utility's generation resources and the Market Price Benchmark, which is referred to as the "indifference amount." The indifference amount is then allocated to Departing Load customers on a vintaged basis and recovered through the PCIA and CTC.
3. The Settling Parties reached a consensus resolving parties' disagreement over the key issue raised in Phase 1 of this proceeding.
4. Three of the four Joint Parties (CCEA, MCE, and U.C.) did not sign the PG&E Settlement, nor did they file any responses to the PG&E Settlement.

5. PG&E on behalf of the Settling Parties filed a joint motion for approval of the PG&E Settlement in this proceeding.

6. Under the PG&E Settlement, the Settling Parties agree that as of PG&E's 2016 Erra Forecast proceeding, no negative indifference amount balance exists for pre-2009 vintage DA customers, nor shall it be carried over to offset any other non-PCIA rate. The Settling Parties agree that no adjustments are required to the rates of pre-2009 vintage DA customers as a result of the PG&E Settlement.

7. The PG&E Settlement is uncontested. No responses were filed in response to the Joint Motion for approval of the PG&E Settlement.

Conclusions of Law

1. The PG&E Settlement is reasonable in light of the whole record, consistent with law, and in the public interest.

2. The PG&E Settlement is consistent with the Commission's PCIA decisions and the Commission's interest in treating pre-2009 vintage DA customers consistently across the utility service territories.

3. The PG&E Settlement is a reasonable compromise of the Settling Parties' respective litigation positions.

O R D E R

IT IS ORDERED that:

1. The Joint Motion of Pacific Gas and Electric Company, Direct Access Customer Coalition, and California Large Energy Consumers Association for Approval of Settlement Agreement filed on September 6, 2019 is granted.

2. This proceeding is closed.

This order is effective today.

Dated _____, at San Francisco, California.

APPENDIX A

APPENDIX A
Abbreviations, Acronyms, and Definitions

A.	Application
ALJ	Administrative Law Judge
CCA	Community Choice Aggregation
CCEA	California Choice Energy Authority
CLECA	California Large Energy Consumers Association
CTC	Competition Transition Charge
D.	Decision
DA	Direct Access. A DA customer receives distribution and transmission services from the utility but purchases its electric energy from its energy service provider. (D.01-09-060 at 2) DA service was suspended on September 20, 2001 (D.01-09-060, Ordering Paragraph 4) and reopened in 2010 on a limited basis. (Senate Bill 695 (Stats. 2009 Chapter 337,) and D.10-03-022)
DACC	Direct Access Customer Coalition
Departing Load Customer	Customers who opt for non-utility electric energy services such as CCA or DA
DWR	Department of Water Resources
ERRA	Energy Resource Recovery Account
Indifference Amount	The difference between the total portfolio costs of the utility generation resources and the Market Price Benchmark. It is recovered through the PCIA and CTC.
Joint Parties	California Choice Energy Authority, Direct Access Customer Coalition, Marin Clean Energy, and University of California
MCE	Marin Clean Energy
Market Price Benchmark	The Market Price Benchmark is a calculated proxy that represents the market value of the utility's total generation resource portfolio (D.11-12-018 at 8). The current Market Price Benchmark consists of three components: 1) Brown Power Index, 2) Renewables Portfolio Standard Adder, and 3) Resource Adequacy Capacity Adder (D.18-10-019, Appendix 1). It is refined in D.19-10-001.

2015 Negative Balance	The cumulative negative indifference amount balance accrued from 2006 to 2015 allocated to pre-2009 vintage DA customers (\$77.5 million)
PCIA	Power Charge Indifference Adjustment
PG&E	Pacific Gas and Electric Company
Pre-2009 Vintage DA Customers	Non-exempted Departing Load customers who left the utilities' bundled service prior to 2009. They are also referred as to "pre-2003 departing customers" in PG&E's opening testimony (at 10-4 and 10-6) and "pre-2009 vintage departing load customers" in parties' filings. This decision refers these customers as "pre-2009 Vintage DA Customers" because they are exclusively DA customers who left the utility's bundled service prior to the DA suspension in 2001. There were no new DA customers between the DA suspension in 2001 and the reopening of DA in 2010. The first CCA was formed in 2010.
Pre-2009 Vintage PCIA	The PCIA for pre-2009 vintage DA customers
Procurement Costs	The total portfolio costs of the utility generation resource
SCE	Southern California Edison Company
SDG&E	San Diego Gas & Electric Company
Settling Parties	Pacific Gas and Electric Company, Direct Access Customer Coalition, and California Large Energy Consumers Association
The Utilities	PG&E, SCE, and SDG&E
U.C.	University of California
UOG	Utility-Owned Generation

(END OF APPENDIX A)

APPENDIX B



FILED

09/06/19
04:59 PM

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Application of SAN DIEGO GAS &
ELECTRIC COMPANY (U902E) for
Approval of its 2017 Electric Procurement
Revenue Requirement Forecasts and
GHG-Related Forecasts.

Application 16-04-018
(Filed April 15, 2016)

And Related Matters.

Application 16-05-001
Application 16-06-003

**JOINT MOTION OF PACIFIC GAS AND ELECTRIC COMPANY (U 39 E),
DIRECT ACCESS CUSTOMER COALITION, AND
CALIFORNIA LARGE ENERGY CONSUMERS ASSOCIATION
FOR APPROVAL OF SETTLEMENT AGREEMENT**

KRISTIN D. CHARIPAR

Pacific Gas and Electric Company
77 Beale Street, B30A
San Francisco, CA 94105
Telephone: (415) 973-6117
Facsimile: (415) 973-5520
E-mail: Kristin.Charipar@pge.com

Dated: September 6, 2019

Attorney for
PACIFIC GAS AND ELECTRIC COMPANY

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Application of SAN DIEGO GAS &
ELECTRIC COMPANY (U902E) for
Approval of its 2017 Electric Procurement
Revenue Requirement Forecasts and
GHG-Related Forecasts.

Application 16-04-018
(Filed April 15, 2016)

And Related Matters.

Application 16-05-001
Application 16-06-003

**JOINT MOTION OF PACIFIC GAS AND ELECTRIC COMPANY (U 39 E),
DIRECT ACCESS CUSTOMER COALITION, AND
CALIFORNIA LARGE ENERGY CONSUMERS ASSOCIATION
FOR APPROVAL OF SETTLEMENT AGREEMENT**

Pursuant to Commission Rules of Practice and Procedure (Rule) 12.1(a), Pacific Gas and Electric Company (U 39 E) (PG&E), on behalf of itself and the Direct Access Customer Coalition (DACC) and California Large Energy Consumers Association (CLECA) (jointly, Settling Parties), respectfully submits this motion requesting approval of the *Settlement Agreement Resolving the Negative Indifference Amount Balance for Pre-2009 Direct Access Customers* (Settlement) included as Attachment A to this motion. In accordance with Rule 1.8(d), PG&E confirms the Settling Parties have authorized PG&E to file this motion on their behalf.

The Settlement is in the public interest, represents a fair and equitable resolution of the issues, and achieves the stated goal that pre-2009 vintage departing load customers^{1/} and their associated Power Charge Indifference Adjustment (PCIA) charges be treated consistently while taking into consideration the unique circumstances in each investor-owned utility's (IOU's) territory. Thus, the Settlement should be approved by the California Public Utilities Commission (Commission) without modification.

^{1/} The pre-2009 vintage departing load customers consist only of direct access customers. As such, PG&E also refers to this group of customers as the pre-2009 vintage direct access customers.

I. PROCEDURAL BACKGROUND

On December 28, 2015, the Commission issued Decision (D.) 15-12-022 approving PG&E's 2016 Energy Resources Recovery Account Forecast Application, which had eliminated the PCIA charges for the pre-2009 vintage direct access customers, based on prior Commission orders stating that the PCIA obligation expires when the California Department of Water Resources (DWR) contracts expire in 2015.^{2/} However, in that Decision, the Commission directed PG&E to request authority for disposition or retirement of the negative indifference amounts associated with pre-2009 vintage direct access customers in its next ERRA Forecast application.^{3/}

On June 1, 2016, PG&E filed its 2017 ERRA Forecast Application, requesting authority to retire the negative indifference amount balance attributable to the pre-2009 vintage direct access customers.^{4/} Parties briefed this issue, but the Commission deferred ruling on this matter to a second phase of the 2017 ERRA forecast proceeding.^{5/}

On May 22, 2017, Administrative Law Judge (ALJ) S. Pat Tsen issued a ruling directing consolidation of each utility's 2017 ERRA Forecast Applications^{6/} to a Phase 2 of the proceeding to address each IOU's treatment of PCIA charges for pre-2009 vintage direct access customers.^{7/} The ruling noted that "the Commission believes such pre-2009 departing load customers and

^{2/} Decision (D.) 15-12-022, issued December 28, 2015.

^{3/} Id., Ordering Paragraph 5.

^{4/} A. 16-06-003, p. 11.

^{5/} D. 16-12-038, p. 13, issued December 16, 2016.

^{6/} A. 16-04-018, *Application of San Diego Electric & Gas Company for Approval of its 2017 Electric Procurement Revenue Requirement Forecasts and GHG-Related Forecasts* (filed April 15, 2016); A. 16-05-001, *Application of Southern California Edison Company for Approval of its Forecast 2017 ERRA Proceeding Revenue Requirement* (filed May 2, 2016); and A. 16-06-003, *Application of Pacific Gas and Electric Company for Adoption of Electric Revenue Requirements and Rates Associated with its 2017 Energy Resource Recovery Account (ERRA) and Generation Non-Bypassable Charges Forecast and Greenhouse Gas Forecast Revenue and Reconciliation* (filed June 1, 2016).

^{7/} *Administrative Law Judge's Ruling Consolidating Proceedings and Establishing Phase II* (filed May 22, 2017).

their associated PCIA charges should be treated consistently, while taking in consideration unique circumstances in each investor-owned utility's territory."^{8/}

On February 2, 2018, and March 22, 2018, Commissioner Martha Guzman Aceves issued rulings defining the scope of the proceeding with respect to PG&E as follows:

For PG&E, how should the negative indifference amount balance for pre-2009 Direct Access Customers be treated? Should the balance be eliminated as proposed by PG&E or returned in the form of a bill credit in order to ensure bundled customer indifference?^{9/}

Parties submitted briefs, reply briefs, and sur-reply on this matter on April 3, 2018, April 17, 2018, and May 2, 2018, respectively, and in accordance with these rulings.

On March 8, 2019, Energy Division sent a data request to PG&E to forecast the post-2015 negative indifference amount balance for pre-2009 vintage departing load customers, assuming their PCIA charge continued. PG&E provided a response on March 22, 2019, showing that the negative indifference amount balance would be exhausted by 2018, and thereafter the pre-2009 vintage departing load customers would have a positive PCIA charge.

On May 22, 2019, ALJ Scarlett Liang-Uejio issued a ruling setting aside submission and directing an all-party meet and confer to discuss whether there are any unresolved issues related to the accuracy of the March 22, 2019 data request response and whether parties are able to resolve PG&E's Phase 2 issues.^{10/} PG&E held a meet and confer on June 21, 2019, and parties determined that further discussions were necessary.

On August 16, 2019, the Commission issued its *Decision Resolving the Issues of Power Charge Indifference Adjustment for Pre-2009 Vintage Direct Access Customers in Southern*

^{8/} Id., p. 2.

^{9/} *Scoping Memo and Ruling of Assigned Commissioner for Phase 2* (Issued February 2, 2018), p. 3; *Assigned Commissioner's Ruling Amending the Scoping Memorandum, Granting the Motion for Clarification Filed by Southern California Edison and Denying the Motion for Clarification Filed by Pacific Gas and Electric Company* (Issued March 22, 2018), p. 3.

^{10/} *Administrative Law Judge's Ruling Setting Aside Submission, Reopening the Record, and Directing All-Party Meet and Confer* (filed May 22, 2019).

California Edison Company's and San Diego Gas & Electric Company's Territories.^{11/} This Decision approved a settlement agreement whereby Southern California Edison's pre-2009 vintage direct access customers only have an ongoing PCIA charge to refund costs related to the San Onofre Nuclear Generating Station, but no further legacy utility-owned generation (UOG) costs.^{12/} The Commission found the settlement agreement consistent with the Commission's PCIA decisions and the guiding principles set forth in the Scoping Memo of this proceeding.^{13/}

In August 2019, PG&E, DACC, and CLECA arrived at the Settlement agreement terms as set forth below, to resolve the issue of how the negative indifference amount balance should be treated for pre-2009 vintage direct access customers.

II. SUMMARY OF SETTLEMENT TERMS

The Settling Parties agree that the negative indifference amount balance attributable to pre-2009 vintage direct access customers should be eliminated. Per D. 07-05-005, the PCIA obligation for pre-2009 vintage departing load customers terminated in the year when the Department of Water Resources (DWR) contracts expired. The Commission approved the elimination of the PCIA obligation for pre-2009 vintage departing load customers in PG&E's 2015 ERRF Forecast, when the DWR contracts were set to expire.^{14/} PG&E has not charged these customers for the PCIA since 2015.

Settling Parties further agree that the negative indifference amount expired when the DWR contracts expired, because there is no PCIA obligation to offset the negative indifference amount against. While DACC initially proposed that the negative indifference amount be used to offset the Competition Transition Charge (CTC), all Settling Parties now agree that no

^{11/} D. 19-08-022, issued August 16, 2019.

^{12/} Id., Ordering Paragraph 5.

^{13/} Id., Conclusions of Law 2, 3, and 5.

^{14/} D. 07-05-005; D. 14-12-053 in A. 14-05-024.

negative indifference balance amount exists for pre-2009 vintage departing load customers, and thus no amount exists to offset any non-PCIA rate such as the CTC. Settling Parties further agree that the CTC obligation is not within the scope of this proceeding.

Since the Settling Parties agree that the negative indifference amount balance is terminated, the Settling Parties correspondingly agree that no adjustments are required to the rates of pre-2009 vintage departing load customers as a result of this agreement.

III. REQUEST FOR APPROVAL OF SETTLEMENT AGREEMENT

The Commission will approve a settlement if it finds the settlement “reasonable in light of the whole record, consistent with law, and in the public interest.”^{15/} Furthermore, the Commission has encouraged settlement of this matter, as directed in the May 22, 2019 Ruling.^{16/}

A. The Settlement Is Reasonable in Light of the Whole Record.

The record of this proceeding includes testimony and two rounds of briefing on the negative indifference amount balance disposition. In its 2017 ERRA Forecast Phase 1, PG&E’s testimony set forth the proposal and rationale for retiring the negative indifference amount balance.^{17/} Opening and reply briefs on this specific issue were filed by PG&E and Marin Clean Energy on September 27, 2016 and October 11, 2016, respectively.^{18/} In Phase 2 of this proceeding, PG&E, Regents of the University of California, DACC, California Choice Energy

^{15/} Rule 12.1(d).

^{16/} *Administrative Law Judge’s Ruling Setting Aside Submission, Reopening the Record, and Directing All-Party Meet and Confer*, p. 6.

^{17/} *Pacific Gas and Electric Company Prepared Testimony*, Chapter 10.

^{18/} *Opening Brief of Pacific Gas and Electric Company (U 39 E)*, *Opening Brief of Marin Clean Energy*, *Reply Brief of Pacific Gas and Electric Company (U 39 E)*, *Reply Brief of Marin Clean Energy*.

Authority, and Marin Clean Energy filed briefs again on April 3, 2018,^{19/} followed by reply briefs on April 17, 2018,^{20/} and PG&E's sur-reply on May 2, 2018.^{21/}

Throughout testimony and briefs, parties cite to D. 07-05-005, where the Commission established that "at the expiration of the DWR contract term, the applicability of the indifference requirement would also expire. In the event that there is any net cumulative negative indifference balance at the time the DWR contracts expire, that balance will not be credited to DA/DL customers. It will simply expire."^{22/} The Settlement Agreement adopts this general principle that was set forth in numerous briefs. Furthermore, PG&E's sur-reply brief further clarified that its joint proposal with SCE and SDG&E in the PCIA Rulemaking (R. 17-06-026) did not change its position with respect to pre-2009 vintage departing load customers, such that these customers should not continue to pay for legacy UOG costs consistent with prior PCIA decisions.^{23/} As such, the Settlement Agreement is reasonable in light of this record.

B. The Settlement Is Consistent with the Law.

The Settling Parties believe that the terms of the Settlement Agreement comply with all applicable statutes and prior Commission decisions, including D. 07-05-005. In agreeing to the terms of the Settlement Agreement, the Settling Parties have explicitly considered the relevant statutes and Commission decisions, including D. 18-10-019, and believe that the Commission can approve the Settlement Agreement without violating applicable statutes or prior Commission decisions. Furthermore, the Settling Parties note that PG&E's retirement of the negative indifference amount will result in consistent ratemaking treatment of pre-2009 vintage departing

^{19/} *Opening Brief of Pacific Gas and Electric Company (U 39 E), Opening Brief of Joint Direct Access Parties, Joint Opening Brief of the CCA Parties.*

^{20/} *Reply Brief of Pacific Gas and Electric Company (U 39 E), Reply Brief of the Joint Parties.*

^{21/} *Sur-reply of Pacific Gas and Electric Company (U 39 E) (PG&E Sur-Reply).*

^{22/} D. 07-05-005, pp. 20-21 and Finding of Fact 14.

^{23/} PG&E Sur-Reply, pp. 2-3.

load customers across the IOUs, as expressly encouraged by the Commission.^{24/} If this Settlement Agreement is approved, all three utilities will not charge pre-2009 vintage departing load customers for ongoing legacy UOG costs through the PCIA charge.^{25/}

C. The Settlement Is in the Public Interest.

The Settling Parties believe the Settlement Agreement is in the public interest because it reflects a balanced resolution between opposing parties. DACC represents direct access customers, and initially advocated that the negative indifference amount balance be returned to the pre-2009 vintage direct access customers. PG&E, on behalf of all other customers, advocated that the negative indifference amount balance must be retired because there is no ongoing PCIA obligation to offset the negative indifference amount against. CLECA represents bundled, DA, and Community Choice Aggregation customers and strives for equitable treatment of industrial customer interests. The Settlement Agreement is a consensus position, whereby the Settling Parties agree that a PCIA obligation for pre-2009 direct access customers no longer exists, including for legacy UOG costs, and thus the negative indifference amount balance should be retired. All Settling Parties seek a fair and balanced resolution of this matter and support adoption of the Settlement Agreement as such.

This Settlement Agreement is also in the public interest because it resolves a dispute that has lasted over four years, thus ending further litigation time and costs for the parties and the Commission.

^{24/} *Administrative Law Judge's Ruling Consolidating Proceedings and Establishing Phase II*, p. 2.

^{25/} D. 19-08-022 continues the PCIA obligation for Southern California Edison Company's pre-2009 vintage direct access customers solely for the purpose of refunding an overcollection of San Onofre Nuclear Generating Station costs, which is an issue unique to its service territory.

IV. CONCLUSION

As demonstrated above, the Settlement is reasonable in light of the whole record, consistent with law, in the public interest, and consistent with the objective of obtaining consistent treatment for pre-2009 vintage direct access customers across utilities' territories. Thus, the Settling Parties respectfully request that the Commission approve the Settlement without modification.

Respectfully submitted on behalf of
Pacific Gas and Electric Company,
Direct Access Customer Coalition, and
California Large Energy Consumers Association

KRISTIN D. CHARIPAR

By: /s/ Kristin D. Charipar
KRISTIN D. CHARIPAR

Pacific Gas and Electric Company
77 Beale Street, B30A
San Francisco, CA 94105
Telephone: (415) 973-6117
Facsimile: (415) 973-5520
E-Mail: Kristin.Charipar@pge.com

Dated: September 6, 2019

Attorney for
PACIFIC GAS AND ELECTRIC COMPANY

ATTACHMENT A
SETTLEMENT AGREEMENT

**BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA**

Application of SAN DIEGO GAS &
ELECTRIC COMPANY (U902E) for
Approval of its 2017 Electric Procurement
Revenue Requirement Forecasts and GHG-
Related Forecasts.

U 39 E

Application 16-04-018
(Filed April 15, 2016)

And Related Matters.

Application 16-05-001
Application 16-06-003

**SETTLEMENT AGREEMENT RESOLVING THE
NEGATIVE INDIFFERENCE AMOUNT BALANCE FOR
PRE-2009 DIRECT ACCESS CUSTOMERS BETWEEN
PACIFIC GAS AND ELECTRIC COMPANY (U 39 E), THE
DIRECT ACCESS CUSTOMER COALITION, AND THE
CALIFORNIA LARGE ENERGY CONSUMERS
ASSOCIATION**

Pacific Gas and Electric Company (PG&E), the Direct Access Customer Coalition (DACC), and the California Large Energy Consumers Association (CLECA) (collectively, the Settling Parties), hereby enter into the “Settlement Agreement Resolving the Negative Indifference Amount Balance for Pre-2009 Direct Access Customers” (Settlement Agreement).

ARTICLE 1: PROCEDURAL HISTORY

1.1 On May 22, 2017, Administrative Law Judge (ALJ) S. Pat Tsen issued a ruling directing that Application (A.) 16-04-018,^{1/} A.16-05-001,^{2/} and A.16-06-003^{3/} be consolidated.^{4/} The Ruling identified a shared issue in these three proceedings: each investor-owned utility’s (IOU’s) treatment of Power Charge Indifference Adjustment (PCIA) charges for pre-2009 vintage departing load customers.^{5/} The Ruling further noted that the Commission believes such pre-2009 departing load customers and their associated PCIA charges should be treated consistently, while taking in consideration unique circumstances in each investor-owned utility’s territory.^{6/}

1.2 On February 2, 2018, and March 22, 2018, Commissioner Martha Guzman Aceves issued rulings defining the scope of the proceeding with respect to PG&E as follows:

For PG&E, how should the negative indifference amount balance for pre-2009 Direct Access customers be treated? Should the balance be eliminated as proposed by PG&E or returned in the form of a bill credit in order to ensure

^{1/} *Application of San Diego Electric & Gas Company for Approval of its 2017 Electric Procurement Revenue Requirement Forecasts and GHG-Related Forecasts* (filed April 15, 2016).

^{2/} *Application of Southern California Edison Company For Approval of Its Forecast 2017 ERRR Proceeding Revenue Requirement* (filed May 2, 2016).

^{3/} *Application of Pacific Gas and Electric Company for Adoption of Electric Revenue Requirements and Rates Associated with its 2017 Energy Resource Recovery Account (ERRR) and Generation Non-Bypassable Charges Forecast and Greenhouse Gas Forecast Revenue and Reconciliation* (filed June 1, 2016).

^{4/} *Administrative Law Judge’s Ruling Consolidating Proceedings and Establishing Phase II* (Issued May 22, 2017).

^{5/} *Id.*, p. 2.

^{6/} *Id.*

bundled customer indifference?^{7/}

Parties submitted Briefs, Reply Briefs, and Sur-Reply briefs on these matters on April 3, 2018, April 17, 2018, and May 2, 2018, respectively, and in accordance with these Rulings.

1.3 On March 8, 2019, Energy Division sent a data request to PG&E for the forecast of the post-2015 negative indifference amount balance for pre-2009 vintage departed customers, assuming their PCIA obligation continued. PG&E provided a response on March 22, 2019, showing that the negative indifference amount balance would be exhausted by 2018, and thereafter the pre-2009 vintage departed customers would have a positive PCIA charge.

1.4 On May 22, 2019, ALJ Scarlett Liang-Uejio issued a ruling setting aside submission and directing an all-party meet and confer to discuss whether there are any unresolved issues related to the accuracy of the March 22, 2019 data request response and whether parties are able to resolve PG&E's Phase 2 issues.^{8/}

1.5 Pursuant to the May 22, 2019 Ruling, PG&E held a meet and confer on June 21, 2019. PG&E filed a summary of the June 21, 2019 meet and confer on June 24, 2019, stating that further discussion on the matter was requested by parties.

^{7/} *Scoping Memo and Ruling of Assigned Commissioner for Phase 2* (Issued February 2, 2018), p. 3; *Assigned Commissioner's Ruling Amending the Scoping Memorandum, Granting the Motion for Clarification Filed by Southern California Edison and Denying the Motion for Clarification Filed by Pacific Gas and Electric Company* (Issued March 22, 2018), p. 3. (collectively, Scoping Rulings)

^{8/} *Administrative Law Judge's Ruling Setting Aside Submission, Reopening the Record, and Directing All-Party Meet and Confer* (filed May 22, 2019).

1.6 After three subsequent settlement meetings, PG&E, DACC, and CLECA arrived at the Settlement Agreement terms as set forth below, to resolve the issue of how the negative indifference amount balance should be treated for pre-2009 vintage Direct Access customers.

ARTICLE 2: SETTLEMENT AGREEMENT TERMS AND CONDITIONS

To resolve how the negative indifference amount balance for pre-2009 Direct Access customer should be treated, the Settling Parties agree to the following terms and conditions:

2.1 Settling Parties agree that the PCIA obligation for Pre-2009 Vintage Departing Load Customers terminated in the year when the Department of Water Resources (DWR) contracts expired. PG&E's DWR contracts were set to expire in September 2015 and were terminated in April 2015 by DWR.

2.2 Settling Parties agree that the negative indifference amount identified in PG&E's 2016 ERRA Forecast proceeding (and consolidated with the 2017 ERRA Forecast proceeding) and attributable to pre-2009 Vintage Departing Load Customers expired when the DWR contracts expired in 2015.

2.3 Settling parties agree that as of the 2016 ERRA Forecast Proceeding, no negative indifference balance amount exists for Pre-2009 Vintage Departing Load Customers nor shall it be carried over to offset any other non-PCIA rate.

2.4 Settling Parties agree that the CTC obligation is not within scope of this Settlement.

2.5 Settling parties agree that no adjustments are required to the rates of pre-2009 Vintage Departing Load Customers as a result of this settlement agreement.

ARTICLE 3: GENERAL PROVISIONS

3.1 In accordance with Rule 12.5, the Settling Parties intend that Commission adoption of this Settlement will be binding on the Settling Parties, including their legal successors, assigns, partners, members, agents, parent or subsidiary companies, affiliates, officers, directors, and/or employees. Unless the Commission expressly provides otherwise, and except as otherwise expressly provided herein, such adoption does not constitute approval or precedent for any principle or issue in this or any future proceeding.

3.2 The Settling Parties agree that nothing contained in this Settlement Agreement is to be construed as an admission of liability, fault, or improper action by any party.

3.3 The Settling Parties agree that this Settlement Agreement is subject to approval by the Commission. As soon as practicable after the Settling Parties have signed this Settlement Agreement, the Parties shall jointly file a motion for Commission approval and adoption of the Settlement Agreement. The Settling Parties will furnish such additional information, documents, and/or testimony as the ALJ or the Commission may require in granting the motion adopting this Settlement.

3.4 The Settling Parties agree to support the Settlement Agreement and use their best efforts to secure Commission approval of the Settlement Agreement in its entirety without modification.

3.5 The Settling Parties agree to recommend that the Commission approve and adopt this Settlement Agreement in its entirety without change.

3.6 The Settling Parties agree that, if the Commission fails to adopt this Settlement in its entirety and without modification, the Settling Parties shall convene a settlement conference within fifteen (15) days thereof to discuss whether they can resolve the issues raised by the Commission's actions. If the Settling Parties cannot mutually agree to resolve the issues raised by the Commission's actions, the Settlement Agreement shall be rescinded, and the Settling Parties shall be released from their obligation to support the Settlement Agreement. Thereafter, the Settling Parties may pursue any action they deem appropriate but agree to cooperate in establishing a procedural schedule.

3.7 The Settling Parties agree to actively and mutually defend the Settlement Agreement if adoption is opposed by any other party.

3.8 This Settlement Agreement constitutes a full and final settlement of all issues set forth in the Scoping Rulings. This Settlement Agreement constitutes the Settling Parties' entire settlement, which cannot be amended or modified without the express written and signed consent of all the Settling Parties thereto.

ARTICLE 4: MISCELLANEOUS PROVISIONS

4.1 The Settling Parties agree that no signatory to the Settlement Agreement or any employee thereof assumes any personal liability as a result of the Settlement Agreement.

4.2 If any Settling Party fails to perform its respective obligations under the Settlement Agreement, the other Settling Parties may come before the Commission to pursue a remedy including enforcement.

4.3 The provisions of this Settlement Agreement are not severable. If the Commission, or any competent court of jurisdiction, overrules or modifies as legally invalid any material provision of the Settlement Agreement, the Settlement Agreement may be considered rescinded as of the date such ruling or modification becomes final, at the discretion of the Settling Parties.

4.4 The Settling Parties acknowledge and stipulate that they are agreeing to this Settlement Agreement freely, voluntarily, and without any fraud, duress, or undue influence by any other party. Each party states that it has read and fully understands its rights, privileges, and duties under the Settlement Agreement, including each party's right to discuss the Settlement Agreement with its legal counsel and has exercised those rights, privileges, and duties to the extent deemed necessary.

4.5 In executing this Settlement Agreement, each Settling Party declares and mutually agrees that the terms and conditions are reasonable, consistent with law, and in the public interest.

4.6 No Settling Party has relied, or presently relies, upon any statement, promise, or representation by any other party, whether oral or written, except as specifically set forth in this Settlement Agreement. Each Settling Party expressly assumes the risk of any mistake of law or fact made by such Settling Party or its authorized representative.

4.7 This Settlement Agreement may be executed in separate counterparts by the different Settling Parties hereto with the same effect as if all Settling Parties had signed one and the same document. All such counterparts shall be deemed to be an original and shall together constitute one and the same Settlement Agreement. This Settlement Agreement shall become

effective and binding on the Settling Parties as of the date it is approved by the Commission in a final and non-appealable decision.

4.8 This Settlement Agreement shall be governed by the laws of the State of California as to all matters, including but not limited to, matters of validity, construction, effect, performance, and remedies.

CONCLUSION


The Settling Parties mutually believe that, based on the terms and conditions stated above, this Settlement Agreement is reasonable in light of the whole record, consistent with the law, and in the public interest. The Settling Parties' authorized representatives have duly executed this Settlement Agreement on behalf of the Settling Parties they represent.

PACIFIC GAS AND ELECTRIC
COMPANY

/s/ 
Robert Kenney
Vice President, Regulatory Affairs


Date: September 3, 2019

DIRECT ACCESS CUSTOMER
COALITION

/s/ 
Daniel W. Douglass
Attorney, Direct Access Customer Coalition

Date: August 30, 2019

CALIFORNIA LARGE ENERGY
CONSUMERS ASSOCIATION


/s/ _____
Nora Sheriff
Counsel, California Large Energy Consumers
Association

Date: August 30, 2019